

the Examiner's instructions. No new matter has been added. Claims 120, 121 and 131-133 are now believed to be in condition for allowance.

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#### The Specification

The Examiner objected to the list of references on pages 30-35 of the specification and stated that they should be deleted as they are a redundant part of the specification. The disclosure has been amended herein so as to delete the list of references on pages 30-35 in accordance with the Examiner's instructions. As a result of the amendments, Applicant believes the Examiner's objections to be traversed.

#### Claim Rejections under 35 U.S.C. 112

The Examiner rejected claims 120-121 and 131-133 as being indefinite for failing to particularly point and distinctly claim the subject matter of the present invention. Specifically, the Examiner noted in claim 120, line 8, that the recitation of "means of ..." was not clear. The Examiner further noted in claim 121 recitation of the element "the edge side" lacked antecedent basis. Lastly, the Examiner noted in claim 131 recitation of the element "the profiled-section notches" lacked antecedent basis.

Claim 120, line 8, has been amended to delete recitation of the term "means of ...". Likewise claim 121 has been amended such that "the edge side" now reads "an edge side" and, as such,

requires no antecedent basis. Similarly, claim 131 has been amended so that "the profiled-section notches" reads "a profiled-section notch". As a result of these amendments, Applicant believes claims 120, 121 and 131 traverse the Examiner's grounds for rejection. Claims 120, 121 and 131 are therefore believed to be in condition for allowance. As claims 132 and 133 are dependent upon claim 131, claim 131 now believed to be in condition for allowance, claims 132 and 133 are likewise believed to be in condition for allowance.

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#### Claim Rejections under 35 U.S.C. 102

The Examiner rejected claims 120-121 as being anticipated by Japanese reference '434 or Scofield (US 3,723,696).

Japanese reference '434 recites a profiled section including a basic section and a surface coating. Likewise, Scofield discloses a profiled section similarly including a basic section and a surface coating. The Examiner notes specifically that Scofield discloses a surface coating wherein the surface coating includes "recesses on the side thereof for receiving fasteners 24, which fasteners are readable as a joining material".

Prior to this amendment, claim 120 recited "a joining material or joining profiled section". Claim 120 has been amended herein to delete reference to "a joining material". Therefore, as amended, claim 120 recites only a joining profiled section which at least partially fills the plurality of recesses. As a result, the fasteners disclosed by Scofield, do not read on

the joining profiled section of the ~~present invention~~. A central feature of the basic profiled section of the present invention is the profile section limbs on both sides of the rail head which at least partially cover the recesses. These profile section limbs comprise the joining profiled sections as recited in claim 120. Neither Scofield nor the Japanese reference teach the joining profiled section of the present invention. As the figures of both prior art references make clear, both Scofield et al. and the Japanese reference teach a strip shaped like a U which covers the head section of the basic profile section. This is in no way similar to the joining profiled section of the present invention.

Because Scofield and the Japanese reference fail to teach the central element of the present invention, Applicant respectfully submits that the rejections under 35 U.S.C. 102 drawn to claims 120-121 are traversed. As a result claims 120-121 are believed to be in condition for allowance.

#### Allowable Subject Matter

The Examiner noted that claims 131-133 would be favorably reconsidered in rewritten or amended to overcome the rejections under 35 U.S.C. 112 as set forth above. Applicant respectfully submits that claims 131-133 have been amended in accordance with Examiner's grounds for rejections. As a result, claims 131-133 are believed to be in condition for allowance.

Miscellaneous Claim Amendments

Claims 120-121 and 131-133 have been amended to remove the reference numbers included in the claims as originally filed. This is done solely to bring the claims into closer conformity with U.S. patent practice.

An earnest and thorough attempt has been made by the undersigned to resolve the outstanding issues in this case and place same in condition for allowance. If the Examiner has any questions or feels that a telephone or personal interview would be helpful in resolving any outstanding issues which remain in this application after consideration of this amendment, the Examiner is courteously invited to telephone the undersigned and the same would be gratefully appreciated.

It is submitted that the claims as amended herein patentably define over the art relied on by the Examiner and early allowance of same is courteously solicited.

If any additional fees are required in connection with this case, it is respectfully requested that they be charged to Deposit Account No. 02-0184.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20331

on July 29, 2002

Antoinette Sullo

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Attorney and Reg. Pro. of Attorney

Antoinette Sullo  
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7-29-02  
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Date: July 29, 2002

Respectfully submitted,

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U.S. Patent Application SN 09/786,568  
AMENDED CLAIMS

120. (Amended) A composite profiled section comprising a basic profiled section [(1)] made from a material with a good electrical conductivity and at least one surface coating which is joined to the basic profiled section and is made from a material with a higher resistance to abrasion, in particular a metal wearable strip [(19)], wherein the wearable strip [(19)], on at least one of its longitudinal edges [(23)], has recesses [(27)], which are at least partially filled by [means of a joining material (59) or] joining profiled section [(11, 39, 66, 69, 74)] and are thus joined to the basic profiled section [(1)] in a nonpositively and/or positively locking manner.

121. (Amended) The composite profiled section as claimed in claim 120, wherein the recesses [(27)], on [the] an edge side, define an anchor bar [(25)] of a height (h).

131. (Amended) The composite profiled section as claimed in claim 120, wherein a sliding strip [(7)] is inserted or mounted in [one of the] a profiled-section notch[es (13, 109)].

132. (Amended) The composite profiled section as claimed in claim 131, wherein the sliding strip [(7)] is made from stainless steel.

133. (Amended) The composite profiled section as claimed in claim 131, wherein the sliding strip [(7)] consists of an electrically nonconductive material.



U.S. Patent Application SN 09/786,568  
CLEAN COPY OF AMENDED CLAIMS

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B1 120. (Amended) A composite profiled section comprising a basic profiled section made from a material with a good electrical conductivity and at least one surface coating which is joined to the basic profiled section and is made from a material with a higher resistance to abrasion, in particular a metal wearable strip, wherein the wearable strip, on at least one of its longitudinal edges, has recesses, which are at least partially filled by joining profiled section and are thus joined to the basic profiled section in a nonpositively and/or positively locking manner.

121. (Amended) The composite profiled section as claimed in claim 120, wherein the recesses, on an edge side, define an anchor bar of a height (h).

B2 131. (Amended) The composite profiled section as claimed in claim 120, wherein a sliding strip is inserted or mounted in a profiled-section notch.

132. (Amended) The composite profiled section as claimed in claim 131, wherein the sliding strip is made from stainless steel.

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B2  
ct 133. (Amended) The composite profiled section as claimed in  
claim 131, wherein the sliding strip consists of an electrically  
nonconductive material.

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